

**Activities that Do Not Constitute a Significant Lowering of Water Quality
Comparison of Current Draft Rules and 5-2-11.3**

2-1.3-6	5-2-11.3
<p>(c)(1) Increases in loadings of any BCC within the existing capacity and processes that are covered by an existing applicable control document. These changes include the following:</p> <ul style="list-style-type: none"> (A) Normal operational variability, including intermittent increased discharges due to wet-weather conditions. (B) Changes in intake water pollutants not caused by the discharger. (C) Increasing the production hours of the facility, for example, adding a second shift. (D) Increasing the rate of production. 	<p>(b)(C)(i) Changes in loadings of any substance within the existing capacity and processes, and that are covered by the existing applicable permit. These changes include, but are not limited to, the following:</p> <ul style="list-style-type: none"> (AA) Normal operational variability, including, but not limited to, intermittent increased discharges due to wet-weather conditions. (BB) Changes in intake water pollutants not caused by the discharger. (CC) Increasing the production hours of the facility, for example, adding a second shift. (DD) Increasing the rate of production.
<p>(c)(2) Bypasses not prohibited by 327 IAC 5-2-8(11).</p>	<p>(C)(iii)(BB) Bypasses that are not prohibited at 40 CFR 122.41(m) or section 8(11) of this rule.</p>
<p>(c)(3) New or increased discharges of a BCC above the existing mass discharged due to increasing the sewered area or connection of new sewers and customers, provided that the increase is within the design flow of the facility, there is no increased loading of BCCs from nondomestic wastes, and no significant change is expected in the characteristics of the wastewater discharged.</p>	

<p>(c)(4) & (d)(7) Response actions pursuant to the CERCLA, as amended, or similar federal or state authorities, undertaken to alleviate a release into the environment of hazardous substances, pollutants or contaminants that may pose an imminent and substantial danger to public health or welfare.</p>	<p>(C)(iii)(EE) New or increased discharges of a pollutant or pollutant parameter due to response actions pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (as defined in IC 13-11-2-24), as amended, corrective actions pursuant to the Resource Conservation and Recovery Act (RCRA), as amended, or similar federal or state authorities, undertaken to alleviate a release into the environment of hazardous substances, pollutants, or contaminants that may pose an imminent and substantial danger to public health or welfare.</p>
<p>(d)(1) New or increased dischargers of treated sanitary wastewater that are designed to meet the following permit conditions:</p> <ul style="list-style-type: none"> (A) Ten (10) milligrams per liter CBOD₅ as a monthly average. (B) Ten (10) milligrams per liter total suspended solids (TSS) as a monthly average. (C) One (1) milligram per liter ammonia as nitrogen as a monthly average. (D) Disinfection by ultraviolet light. 	
<p>(d)(2) New limits for a non-BCC for an existing permitted discharger that will not allow an increase in either the existing mass or concentration of the non-BCC discharged, including new limits that are a result of the following:</p> <ul style="list-style-type: none"> (A) New or improved monitoring data. (B) New or improved analytical methods. (C) New or modified water quality criteria or values. (D) New or modified effluent limitations guidelines, pretreatment standards, or control requirements for POTWs. 	<p>(C)(ii) New limits for an existing permitted discharger that are not a result of changes in pollutant loading, and will not allow an increase in pollutant loading, including new limits that are a result of the following:</p> <ul style="list-style-type: none"> (AA) New or improved monitoring data. (BB) New or improved analytical methods. (CC) New or modified water quality criteria or values. (DD) New or modified effluent limitations guidelines, pretreatment standards, or control requirements for POTWs.

(d)(3) New or increased discharges of a non-BCC, due solely to the presence of the non-BCC in the intake, when the facility withdraws intake water containing the non-BCC from the same body of water.	(C)(iii)(CC) New or increased discharges of a pollutant, when the facility withdraws intake water containing the pollutant from the same body of water, and the new or increased discharge of the pollutant is due solely to the presence of the pollutant in the intake.
(d)(4) New or increased discharges of a non-BCC due solely to implementation of enforceable industrial or municipal controls on wet-weather flows, including combined sewer overflows and individual NPDES permits for storm water associated with industrial activity, when there is not a calculated increase in the quantity and concentration of pollutants <u>or pollutant parameters</u> discharged to the same body of water.	(C)(iii)(GG) Increased discharges of a pollutant due to implementation of department-approved industrial or municipal controls on wet-weather flows, including combined sewer overflows and industrial storm water, when there is no net increase in the loading of the pollutant to the same body of water.
(d)(5) New or increased discharges of a non-BCC that will result only in a short term, temporary (not to exceed twelve (12) months) lowering of water quality.	(C)(iii)(AA) Short term, temporary (weeks or months) lowering of water quality.
(d)(6) A new or increased discharge of a substance used to treat zebra mussels or other nuisance species in an intake water pipe or structure if the commissioner determines that the new or increased discharge will not cause adverse effects on human health, aquatic life and wildlife.	(C)(iii)(LL) At the commissioner's discretion, new or increased discharges of a substance used to treat zebra mussels in an intake water pipe or structure.
(d)(8) New or increased discharges subject to general permits under 327 IAC 15-5 and 327 IAC 15-6.	(C)(iii)(II) Discharges of storm water subject to a general permit under 327 IAC 15-5 (storm water run-off associated with construction activity) and 327 IAC 15-6 (storm water run-off associated with industrial activity).
(d)(9) New or increased discharges subject to general permits under 327 IAC 15-7 through 327 IAC 15-12.	

<p>(d)(10) A new or increased discharge of a non-BCC, if the applicant demonstrates the following:</p> <ul style="list-style-type: none"> (A) The new or increased discharge is necessary to accomplish a reduction in the release of one (1) or more air pollutants. (B) All reasonable and cost-effective methods for minimizing or preventing the new or increased discharge have been taken. (C) There will be an environmental improvement. An environmental improvement will occur when the applicant demonstrates that the reduction in the discharge of the air pollutant: <ul style="list-style-type: none"> (i) is necessary to meet a state or federal air quality standard or emission requirement; or (ii) will substantially reduce human exposure to hazardous air pollutants or to other air pollutants that are subject to state or federal air quality standards. 	<p>(C)(iii)(KK) An action that will result in a new or increased discharge of a pollutant or pollutant parameter that is not a BCC, if the new or increased discharge is necessary to accomplish a reduction in the release of an air pollutant and the commissioner determines the action will result in a net environmental improvement.</p> <p>The commissioner may approve such an action only if:</p> <ul style="list-style-type: none"> (aa) the reduction in the discharge of the air pollutant is necessary to meet a state or federal air quality standard or will substantially reduce human exposure to hazardous air pollutants; (bb) the reduction in the mass of air pollutant discharged represents a substantial reduction in the total mass released by the applicant; and (cc) the applicant demonstrates that all reasonable and cost-effective methods for avoiding the new or increased discharge to the waterbody have been taken.
<p>(d)(11) New or increased discharges of a non-BCC, where there is a contemporaneous enforceable decrease in the actual loading of the non-BCC from sources contributing to the same body of water such that there is no net increase in the loading of the non-BCC to the same body of water.</p>	<p>(C)(iii)(DD) New or increased discharges of a pollutant that is not a BCC, where there is a contemporaneous enforceable decrease in the actual loading of the pollutant from sources contributing to the same body of water such that there is no net increase in the loading of the pollutant to the same body of water.</p>
<p>(d)(12) A proposed new discharge from a sanitary wastewater treatment plant constructed to alleviate a public health concern, for example, a connection of existing residences currently on septic systems. The applicant shall demonstrate that the proposed treatment plant represents the best technology available as described in subdivision (1).</p>	

(d)(13) A new or increased discharge of a non-BCC if the applicant demonstrates the following:

(A) The new or increased discharge is necessary to accomplish a reduction in the discharge of another pollutant or pollutant parameter.

(B) All reasonable and cost-effective methods for minimizing or preventing the new or increased discharge have been taken.

(C) There will be an improvement in water quality in the water body. An improvement in water quality will occur if the new or increased discharge of the non-BCC is:

(i) not more bioaccumulative; and

(ii) either less bioaccumulative or less toxic than the reduced pollutant or pollutant parameter.

In making these determinations regarding bioaccumulation, the bioaccumulation factor methodology under 327 IAC 2-1.5-13 will be used.

(C)(iii)(JJ) An action that will result in a new or increased discharge of a pollutant or pollutant parameter that is not a BCC, if the new or increased discharge is necessary to accomplish a reduction in the discharge of another pollutant or pollutant parameter and the commissioner determines the action will result in a net improvement in water quality in the waterbody.

The commissioner may approve such an action only if:

(aa) the reduction in the discharge of the reduced pollutant exceeds the increase in the discharge of the new or increased pollutant;

(bb) the new or increased pollutant is determined to be significantly less bioaccumulative and toxic than the decreased pollutant; and

(cc) the applicant demonstrates that all reasonable and cost-effective methods for avoiding the new or increased discharge have been taken.